

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of)	
)	
TELEBRANDS CORP.,)	
a corporation,)	
)	
TV SAVINGS, LLC,))
a limited liability company, and)	DOCKET NO. 9313
)	
AJIT KHUBANI,)	PUBLIC DOCUMENT
individually and as president of)	
Telebrands Corp. and sole member)	
of TV Savings, LLC.)	
)	

**COMPLAINT COUNSEL'S STATEMENT OF MATERIAL FACTS
AS TO WHICH THERE IS NO GENUINE ISSUE**

Pursuant to Commission Rule of Practice 3.24, 16 C.F.R. § 3.24, and in support of their motion for summary decision, Complaint Counsel submits this separate statement of material facts as to which there is no genuine issue.

1. Respondent Telebrands Corp. (“Telebrands”) is a New Jersey Corporation. Answer ¶ 1.
2. Respondent TV Savings, LLC (“TV Savings”) is Connecticut limited liability company. Answer ¶ 2.
3. Respondent Ajit Khubani is the president, chief executive officer, chairmen of the board, and sole owner of respondent Telebrands Corporation (“Telebrands”). Answer ¶ 3; Khubani deposition (Khubani dep.) p. 15. He is the sole member of TV Savings, LLC, a limited liability company. Answer ¶ 3. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of these two business entities, including the acts and practices alleged in the complaint. Answer ¶ 3.
4. Telebrands, which was formed in 1987, sells consumer products primarily through direct response channels such as print or television. Khubani dep. 13-14.
5. Mr. Khubani was ultimately responsible for overseeing the marketing and creative design of the Ab Force advertising and promotional campaign and was the primary person who created and developed the promotional materials. He was primarily responsible for the creation and development of the Ab Force advertising. Telebrands Corp., TV Savings, LLC, and Ajit Khubani’s Objections and Responses to Complaint Counsel’s First Set of Interrogatories, (“Resp. Responses to First Interrogs”)(December 12, 2003) Response to FTC Interrogatory No 8 (renumbered Interrogatory No. 14 by respondents) and Response to FTC Interrogatory No 16 (renumbered Interrogatory No. 30 by respondents)

6. Mr. Khubani set the pricing strategy for the Ab Force, directed the placement and dissemination of the advertising, and decided when the Ab Force would no longer be marketed or sold. Resp. Responses to First Interrogs, Response to FTC Interrogatory No 16 (renumbered Interrogatory No. 30 by respondents).
7. Respondents have worked together concerning the marketing and distribution of the Ab Force product. Answer ¶ 4.
8. Respondent Khubani was appointed by Telebrands as the “Program Manager” pursuant to the services Agreement between Telebrands and TV Savings dated January 22, 2002. Resp. Response to Second Interrogs, interrog 29. As the Program Manager appointed by Telebrands and as TV Savings’ representative under the Service Agreement, Mr. Khubani represented both entities with regard to the responsibilities and duties of each under the Service Agreement. *Id.* at Interrog. 31.
9. Telebrands provided the financing necessary to perform media management services, credit care processing, customer response services, customs clearance, accounting and bookkeeping services and to act as importer of record for TV Savings with respect to the Ab Force, as required under the Services Agreement between Telebrands and TV Savings. Telebrands Corp., TV Savings, LLC, and Ajit Khubani’s Objections and Responses to Complaint Counsel’s First Request for Admissions (“Admissions”) Admission No. 9.
10. From January 22, 2002 to the present, TV Savings has had offices at 81 Two Bridges Road, Fairfield NJ 07004. Resp. Response to Second Interrogs, interrog 27.
11. The Ab Force belt is an electronic muscle stimulation device (“EMS”) which uses electronic stimulation intended to cause stimulation of the muscles. Answer ¶ 4; Response to admission no. 10.
12. In December 2001, respondents began to disseminate radio and print ads for the Ab Force. Answer ¶ 7
13. Respondents advertised the Ab Force on television from January 2002 until April 7, 2002. Answer ¶ 7.
14. Some ads promoted the Ab Force for \$10 each, but the price was sometimes more because of the number of units offered, the product package offered (e.g., a package with applicator gel or additional batteries), or because consumers paid shipping and handling charges. Answer ¶ 7.
15. Gross sales of the Ab Force, including accessories such as batteries and gels, exceeded \$19 million. Answer ¶ 7.
16. Respondents sold a total of 747,812 units of the Ab Force. Resp. Responses to First Interrogs, Response to FTC Interrogatory No 14 (renumbered Interrogatory No. 28 by respondents).
17. Television commercials for the Ab Force appeared more than 10,000 times on cable, satellite, and broadcast television outlets in major national markets. Answer ¶ 8.
18. Television commercials for the Ab Force contained the following statements and images (Answer ¶ 10):
 - a. Commercial attached as Exhibit A (videotape of television commercial) and Exhibit B (Certified transcript of 60-second television commercial).to the complaint:

“I’m sure you’ve seen those fantastic electronic ab belt infomercials on TV. They’re amazing. They’re the latest fitness craze to sweep the country and everybody wants one. The problem is, they’re expensive, selling for up to \$120 each. Well, that’s why we developed the Ab Force that you can buy right now for just \$10. . . .The Ab Force is just as powerful and effective as those expensive ab belts sold by others - - - - designed to send just the right amount of electronic stimulation to your abdominal area!” These statements are accompanied by the following images, among others: (1) over a dozen depictions of well-muscled, bare-chested men and lean, shapely women wearing Ab Force belts and experiencing abdominal muscle contractions; and (2) two close-up images of a bikini-clad woman showing off her trim waist and well-defined abdominal muscles.

- b. Commercial attached as Exhibit C (videotape of television commercial); Exhibit D (Certified transcript of 120-second test television commercial).

“I’m sure you’ve seen those fantastic electronic ab belt infomercials on TV. They’re amazing. They’re the latest fitness craze to sweep the country and everybody wants one. The problem is, they’re expensive, selling for up to \$120 each. Well, that’s why we developed the Ab Force that you can buy right now for just \$10. . . .The Ab Force is just as powerful and effective as those expensive ab belts sold by others - - - - designed to send just the right amount of electronic stimulation to your abdominal area! But don’t be fooled by the price. The Ab Force is just as powerful and effective as those ab belts sold by other companies on infomercials. . . .Using sophisticated electronic technology, the Ab Force is designed to send just the right amount of electronic stimulation to your abdominal area.” These statements are accompanied by the following images, among others: (1) over a dozen depictions of well-muscled, bare-chested men and lean, shapely women wearing Ab Force belts and experiencing abdominal muscle contractions; (2) two close-up images of a bikini-clad woman showing off her trim waist and well-defined abdominal muscles; and (3) one close-up image of a well-muscled, bare-chested man performing a crunch on an exercise bench.

- c. Commercial attached as Exhibit E (videotape of television commercial); Exhibit F (Certified transcript of 60-second television commercial).

“I’m sure you’ve seen those fantastic electronic ab belt infomercials on TV. They’re amazing. They’re the latest craze to sweep the country and everybody wants one. But the thing is, they’re expensive, selling for up to \$120 each. Well, that’s why we developed the Ab Force that you can buy right now for just \$20. . . . The Ab Force uses the same powerful technology as those expensive ab belts - - - - Capable of directing 10 different intensity levels at your abdominal area.” These statements are accompanied by the following images, among others: (1) over a dozen depictions of well-muscled, bare-chested men and lean, shapely women wearing Ab Force belts and experiencing abdominal muscle contractions; and (2) two close-up images of a bikini-clad woman showing off her trim waist and well-defined abdominal muscles

19. Print ads (attached as Exhibit G to the complaint for the Ab Force contained the

following statements (Answer ¶ 10): “I’m sure you’ve seen those fantastic electronic ab belt infomercials on TV. They’re amazing! They’re the latest craze to sweep the country and everybody wants one. The thing is they’re expensive selling for up to \$120 each. That’s why we developed the Abforce that you can buy right now for just \$10. . . . **Don’t Be Fooled By the Price!** The Abforce uses the same powerful technology as those Ab Belts sold by other companies on infomercials. . . . Using sophisticated computer components, the Abforce is capable of directing 10 completely different intensity levels at your abdominal area. . . . So why would you want to buy a more expensive ab belt from the competition when the Abforce is as low as just \$10?” Adjacent to these statements is an image of a well-muscled man wearing an Ab Force belt. Superimposed on this image is a red-and-white, square-shaped “AS SEEN ON TV” logo, and the statement, “Ab Force uses the same powerful technology as those expensive Ab Belts on infomercials.”

20. Radio ads (attached as Exhibit H to the complaint) for the Ab Force contained the following statements (Answer ¶ 10): “Have you seen those fantastic Electronic Ab Belt infomercials on TV? They’re amazing...promising to get our abs into great shape fast—without exercise! They’re the latest fitness craze to sweep the country. But, they’re expensive, selling for up to 120 dollars each! But what if you could get a high quality electronic ab belt for just 10 dollars? That’s right, just 10 dollars! The Ab Force is just as powerful and effective as the expensive ab belts on TV—designed to send just the right amount of electronic stimulation to your abdominal area. . . . Don’t miss out. Get the amazing electronic Ab [F]orce belt—the latest fitness craze for just \$10.”
21. The “AbTronic,” “AB Energizer,” and “Fast Abs” were EMS were electronic ab belts that were advertised by television infomercials in the United States prior to the time period when the Ab Force commercials appeared. Answer ¶ 11; Resp. Responses to First Interrogs (December 12, 2003), Response to FTC Interrogatory No 2 (renumbered Interrogatory No. 3 by respondents); chart attached to declaration of Sam Catanese.
22. Infomercial Monitoring Services, Inc. (“IMS”) records infomercials off air from national cable systems and satellite, tabulates what is aired, and creates the IMS Top 25 Infomercial ranking based on the frequency of infomercial programs aired on the monitored networks. IMS also collects information regarding when particular infomercials begin airing, and an estimate of how much money is spent airing particular infomercials. Declaration of Sam Catanese, ¶ 2.
23. In February 2002, IMS was asked by the Federal Trade Commission to provide a report regarding infomercials for the AbTronic, Ab Energizer, and Fast Abs. In response to that request, IMS provided the Federal Trade Commission with a report showing, for the 35 national cable networks that IMS monitored at the time, (1) when the infomercials for these products first aired, (2) how many times the infomercials had aired as of February 22, 2002, (3) the frequency ranking for those infomercials over the preceding six months, and (4) the total estimated amount of dollars spent for national cable advertising that IMS monitored, based on external rate card rates. Declaration of Sam Catanese, ¶ 4.
24. Infomercials for the AbTronic began airing on April 30, 2001 and, as of February 22, 2002, had aired 2,082 times on the 35 national cable networks that IMS monitored at the time. Chart attached to declaration of Sam Catanese.

25. Infomercials for the Ab Energizer began airing on October 5, 2001 and, as of February 22, 2002, had aired 1,693 times on the 35 national cable networks that IMS monitored at the time. Chart attached to declaration of Sam Catanese.
26. Infomercials for the FastAbs began airing on November 3, 2001 and, as of February 22, 2002, had aired 1,272 times on the 35 national cable networks that IMS monitored at the time. Chart attached to declaration of Sam Catanese.
27. From the week ending January 4, 2002, through the week ending February 22, 2002, IMS ranked the infomercials for these three products as follows:

Week ending January 4	AB Energizer #1, Fast Abs #2, AbTronic #8,
Week ending January 11	AB Energizer #1, AbTronic #7, Fast Abs #12
Week ending January 18	Fast Abs #2, AB Energizer #5, AbTronic #8
Week ending January 25	Fast Abs #5, AbTronic #8, AB Energizer #9
Week ending February 1	Fast Abs #3, AbTronic #9, AB Energizer #16
Week ending February 8	Fast Abs #6, AbTronic #12, AB Energizer #17
Week ending February 15	Fast Abs #11, AbTronic #12, AB Energizer #23
Week ending February 22	AbTronic #16, AB Energizer #23, Fast Abs #36
28. Colette Liantonno is president of Concepts TV Productions, Inc., and she participated in the creation or development of promotional materials for the Ab Force by consulting with Ajit Khubani regarding creative elements for the production of television advertising. Resp. Responses to First Interrogs (December 12, 2003), Response to FTC Interrogatory No 8 (renumbered Interrogatory No. 14 by respondents).
29. Shail Prasad is an independent consultant who was employed by Telebrands to oversee the placement and dissemination of television, radio, email, and print ads for the Ab Force campaign and who helped coordinate and obtain telemarketing services related to the sale of the Ab Force. (“Resp. Responses to First Interrogs”)(December 12, 2003) Response to FTC Interrogatory No 8 (renumbered Interrogatory No. 15-18 by respondents).
30. The *JW Greensheet* is a monitoring service for the infomercial and direct response TV business, which is published by Jordan Whitney Monitoring Service. Khubani depo. 18-19.
31. Among other tabulations, the *JW Greensheet* lists the “Top Fifty Infomercials” that is based on “confidential media budgets and Jordan Whitney’s monitoring of national cable and selected broadcast markets. *Id.* 30-31
32. *Response Magazine*, a trade journal for the electronic direct marketing industry, publishes Jordan Whitney’s Program Rankings for the top ten infomercials and top ten spots monthly. Kevin Towers declaration.
33. From the end of August 2001 through February 2002, JW Greensheet rankings for AbTronic, AB Energizer, and Fast Abs were as follows:

Week ending September 1:	AbTronic #10
Week ending September 15	AbTronic #10
Week ending September 22	AbTronic #11
Week ending September 29	AbTronic #2
Week ending October 6	Ab Tronic #9
Week ending October 13	AbTronic #8, AB Energizer #50

Week ending October 20	AB Energizer #9, AbTronic #12
Week ending November 3	AB Energizer #1, AbTronic #12
Week ending November 10	AB Energizer #1, Ab Tronic # 7
Week ending November 17	AB Energizer #1, AbTronic #7, Fast Abs #34
Week ending November 24	Ab Energizer #2, AbTronic #6, Fast Abs #15
Week ending December 1	AB Energizer #2, Fast Abs # 6, AbTronic #7
Week ending December 8	Fast Abs #1, AB Energizer #2, AbTronic #7
Week ending December 15	Ab Energizer #1, Fast Abs #2, AbTronic #9
Week ending December 24	AB Energizer #1, Fast Abs #3, AbTronic #11
Week ending January 5	Ab Energizer #1, Fast Abs #2, AbTronic #7
Week ending January 12	Fast Abs #1, AB Energizer #2, AbTronic 3#
Week ending January 19	AbTronic #2, AB Energizer #5, Fast Abs #8
Week ending January 26	Fast Abs #1, AbTronic #3, AB Energizer #10
Week ending February 2	Fast Abs #1, AbTronic #7, AB Energizer #15
Week ending February 9	Fast Ab #1, AbTronic, #6, Ab Energizer #12
Week ending February 16	Fast Abs #4, AbTronic #11, AB Energizer #18
Week ending February 23	Fast Abs #5, AbTronic #5, Ab Energizer #33
Week ending March 2	AbTronic #8, Fast Abs #22, AB Energizer #35

- Matsumoto Declaration.
34. A tape of a half-hour infomercial for the AbTronic and copy of the Commission’s Complaint in *Federal Trade Commission v. Hudson Berkley Corporation, et al.*, which includes a transcript of that infomercial are attached as Exhibits A and D to the declaration of Kevin Towers.
 35. A tape of a half-hour infomercial for the Ab Energizer and a copy of the Commission’s Complaint in *Federal Trade Commission v. Electronic Products Distribution, LLC, et al.*, which includes a transcript of that infomercial are attached as Exhibits B and E to the declaration of Kevin Towers.
 36. Two tapes of half-hour infomercials for the Fast Abs and copy of the Commission’s Complaint in *Federal Trade Commission v. United Fitness of America, LLC, et al.*, which includes transcripts of those infomercials are attached as Exhibits C and F to the declaration of Kevin Towers.
 37. The United States Food and Drug Administration (“FDA”) has jurisdiction over EMS abdominal belts such as the Ab Force, which are marketed to “affect the structure or function of the body.” (Affidavit of Robert Gatling, ¶ 3 and Exhibit A thereto) With limited exceptions, prior to being marketed in the United States, FDA requires such devices to receive FDA “premarket approval,” which is a determination from the FDA that the device is substantially equivalent to a legally marketed device. (Affidavit of Robert Gatling, FDA ¶ 6). Under the Federal Food, Drug, and Cosmetic Act, any device that was not introduced into interstate commerce prior to May 28, 1976 (the date the Medical Device Amendments of 1976 became law) is automatically classified as a Class III device and requires premarket approval under 21 U.S.C. § 360e. See 21 U.S.C. § 360c(f); 21 CFR § 807.92(a)(3). This classification and the requirement for premarket approval stand unless FDA reclassifies the device as a Class II or Class I device or the sponsor submits a premarket notification to FDA for the device and obtains an FDA

- decision that the device is substantially equivalent to a legally marketed device. (Affidavit of Robert Gatling, FDA ¶ 6)
38. In May of 2002, FDA sent Telebrands a letter stating that the AB Force is a medical device subject to FDA jurisdiction and regulation and that Telebrands may be in violation of the Federal Food, Drug, and Cosmetic Act due to its failure to obtain FDA marketing clearance before selling the Ab Force. (Affidavit of Robert Gatling, FDA ¶ 10)
39. FDA's import alert (IA #89-01), entitled, "Electrical Muscle Stimulators and Iontophoresis Devices," states that electrical muscle stimulators are misbranded when any of the following claims are made: girth reduction; loss of inches; weight reduction; cellulite removal; bust development; body shaping and contouring; and spot reducing. A true copy of the Import Alert is attached as Exhibit A to Gatling Affidavit. The FDA considers devices making these claims misbranded in violation of the Federal Food, Drug, and Cosmetic Act because to date no devices have been approved to make these claims. Only four non-prescription (over-the-counter) EMS devices have been cleared by FDA for toning, strengthening, and firming abdominal muscles. (Affidavit of Robert Gatling, FDA ¶ 10).
40. Doctors may use electrical muscle stimulators for patients who require muscle re-education, relaxation of muscle spasms, increased range of motion, prevention of muscle atrophy, and for treating other medical conditions which usually result from stroke, serious injury, or major surgery. The effect of using these devices is primarily to help a patient recover from impaired muscle function due to a medical condition, not to increase muscle size enough to affect appearance. (Affidavit of Robert Gatling, FDA, ¶ 13)
41. Dr. Anthony Delitto, Ph.D., Associate Professor and Chairman of the Department of Physical Therapy, School of Health and Rehabilitation Sciences, University of Pittsburgh and Vice President for Education and Research, Centers for Rehab Services, University of Pittsburgh Medical Center, is a physical therapist, who has taught courses and conducted extensive research regarding the application and uses of EMS. (Delitto Expert Report ¶ 1,2) Dr. Delitto spends the majority of his time conducting research related to the efficacy and effectiveness of treatment interventions which include therapeutic EMS. (Delitto Expert Report ¶ 4) Among his credentials, Dr. Delitto has published over 50 peer-reviewed studies and 19 non-peer reviewed publications, including book chapters, commentaries and conference proceedings. (Delitto Expert Report ¶ 5).
42. Electrical Muscle Stimulation ("EMS") is an established treatment typically used in physical therapy to strengthen muscles after injury or surgery. (Delitto Expert Report ¶ 3) It involves the application of electrical current to the human body in order to cause skeletal muscle contractions. (Delitto Expert Report ¶ 2) EMS is commonly used on persons with musculoskeletal conditions such as knee injuries or post surgery or on patients with neurological conditions such a stroke. (Delitto Expert Report ¶ 3)
43. Dr. Delitto tested the Ab Force using a current meter to ascertain the peak current. (Delitto Expert Report ¶ 24) The highest RMS current delivery of the Ab Force is never more than 0.20 milliamps of true RMS current. (Delitto Expert Report ¶ 24) Clinical EMS units that are used for strengthening purposes have minimal RMS current outputs in the range of 30-100 milliamps RMS. (Delitto Expert Report ¶ 24)
44. The Slendertone Flex has a biphasic symmetrical waveform with a phase duration of 200

- microseconds and a pulse duration of 400 microseconds. (Correction to the Record of Testimony of Dr. Anthony Delitto, Ph.D.) The Ab Force which has a pulse duration of 43.8 microseconds on mode 3, its strongest mode. (Correction to the Record of Testimony of Dr. Anthony Delitto, Ph.D.) The pulse duration of the Slendertone Flex is nearly ten time stronger than the pulse duration of the Ab Force, which means the Ab Force is nearly ten times weaker than the Slendertone Flex. (Correction to the Record of Testimony of Dr. Anthony Delitto, Ph.D.)
45. To lose one pound of weight, the average individual must take in approximately 3,500 fewer calories than he or she expends. FTC v. SlimAmerica, 77 F. Supp. 2.d 1263, 1274. EMS devices in general, and the Ab Force device specifically, cannot cause or even assist in the loss of weight, inches, or fat from the human body. (Delitto Expert Report ¶¶ 15,16,17).
 46. To lose weight, a person must exercise, or expend calories, while restricting caloric intake (e.g., diet). (Delitto Expert Report ¶ 16) If EMS were to cause fat loss it would have to aid in expending calories. (Delitto Expert Report ¶ 16) However, there is no scientific evidence that demonstrates that use of EMS devices can burn calories to the degree of volitional exercise and in fact it probably uses only a fraction of the calories. EMS will not be factor in weight loss. (Delitto Expert Report ¶ 16)
 47. There is no scientific evidence of any biophysical mechanism that would cause EMS to eliminate fat under the skin.” (Delitto Expert Report ¶ 15) Accordingly, as the Ab Force and EMS in general cannot cause fat loss, it cannot cause the loss of inches. (Delitto Expert Report ¶ 17)
 48. In order to obtain greater definition of the abdominal musculature a person would have to increase the size of the Rectus Abdominis muscle, which is the largest muscle in the abdomen. (Delitto Expert Report ¶ 19) When a person exercises a muscle, the first effect of the exercise is a strengthening of the muscle. Once the muscle becomes stronger, if the person continued to overload the muscle by exercising it vigorously over an extended period, the muscle would not only increase in strength but could also become larger, which is clinically referred to as “hypertrophy. (Delitto Expert Report ¶ 19)
 49. The Ab Force cannot produce muscle contraction of the abdominals of sufficient magnitude to cause approximation of the rib cage to the pelvis (the proximal and distal attachments of the Rectus Abdominis muscles). (Delitto Expert Report ¶ 25 and Exhibit C.) In most people, the Ab Force cannot elicit a muscle contraction sufficient to cause any movement of the proximal and distal attachments of the Rectus Abdominis muscle. *Id.* The muscle contractile force of the Ab Force is far below that necessary to produce overload and therefore insufficient to cause strength gains or hypertrophy. The Ab Force can not cause a muscle contraction strong enough to overload the muscles, therefore it can not strengthen muscles enough to develop hypertrophy. (Delitto Expert Report ¶ 25)
 50. Additionally, there is no evidence that EMS devices in general can induce substantial hypertrophy of muscles, even under overload training conditions. (Delitto Expert Report ¶ 21)
 51. To be able to see a more defined Rectus Abdominis muscle, a person must minimize the amount of subcutaneous fat under the skin. In most people, a substantial amount of subcutaneous fat precludes seeing even a well-developed Rectus Abdominis muscle.

- (Delitto Expert Report ¶ 18).
52. When a person contracts his or her abdominal muscles to do a sit-up the first thing that happens is the pelvis moves toward the rib cage, next the shoulders are lifted from the floor. (Delitto Expert Report ¶ 26) The Ab Force is too weak to produce a contraction capable of causing movement of the pelvis toward the rib cage. (Delitto Expert Report ¶ 25)
 53. The contractions the Ab Force elicited electrically in thigh muscles were not able to lift the leg through the air against gravity. With so little muscle contractile force being generated as a result of the use of the Ab Force, the use of the Ab Force device would not replace exercises such as weight lifting or squats. (Delitto Expert Report ¶ 27)
 54. Respondents admit that they possess no evidence that the Ab Force will cause users to develop well-defined abdominal muscles, but aver that there is accepted evidence that EMS products substantially similar to Ab Force can provide cosmetic and other benefits and may improve abdominal muscle tone, and strengthen and firm abdominal muscles. Admission No.1.
 55. Respondents admit that they possess no evidence that the Ab Force product specifically will cause users to lose weight, but aver that there is accepted evidence that EMS products substantially similar to Ab Force can provide cosmetic and other benefits and may improve abdominal muscle tone, and strengthen and firm abdominal muscles. Admission No. 2.
 56. Respondents admit that they possess no evidence that the Ab Force product specifically will cause users to lose inches of girth, but aver that there is accepted evidence that EMS products substantially similar to Ab Force can provide cosmetic and other benefits and may improve abdominal muscle tone, and strengthen and firm abdominal muscles. Admission No. 3.
 57. Respondents admit that they possess no evidence that the Ab Force product specifically will cause or reduce body fat, but aver that there is accepted evidence that EMS products substantially similar to Ab Force can provide cosmetic and other benefits and may improve abdominal muscle tone and strengthen and firm abdominal muscles. Admission No. 4.
 58. Respondents admit that they possess no evidence that use of the Ab Force product specifically is an effective alternative to regular exercise, but aver that there is accepted evidence that EMS products substantially similar to Ab Force can provide cosmetic and other benefits and may improve abdominal muscle tone. and strengthen and firm abdominal muscles. Admission No. 5.
 59. Respondents admit that they possess no evidence that the Ab Force product specifically will tone, strengthen, or firm the abdominal muscles of a user, but aver that there is accepted evidence that EMS products substantially similar to Ab Force can provide cosmetic and other benefits and may improve abdominal muscle tone, and strengthen and firm abdominal muscles. Admission No. 6.
 60. Respondents ran four Ab Force television spots, two 60-second spots and two 120-second spots. The 60 and 120 second Ab Force spots, which are attached to the Complaints as Exhibits A and C were aired approximately 96 times on cable television, including the Food Network and MSNBC, between January 5, 2002 and January 27, 2002. Admissions

No. 24. The 60 second Ab Force television spot, which is attached to the Complaint as Exhibit E, and the 120 second Ab Force television spot which Respondents labeled as AB-E-120, were aired on cable and broadcast television, including the Food Network, MSNBC, MTV and the Fox News Channel, between January 19, 2002 and April 7, 2002. Admission No. 25.

61. Mr. Khubani developed the idea for marketing an ab belt, chose the name Ab Force, contacted the factory that made the Ab Force, and discussed specifications for the Ab Force with the factory. Khubani dep. 27, 36-40.

Respectfully submitted,

Connie Vecellio	(202) 326-2966
Walter Gross	(202) 326-3319
Amy M. Lloyd	(202) 326-2394
Joshua Millard	(202) 326-2454

Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dated: March 23, 2004